

**JUDGE KOELTL**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----  
OTTO CANDIES, LLC

Plaintiff,

- against -

CONSTRUCCIONES MECANICAS  
MONCLOVAS, S.A. DE C.V.,

Defendant,  
-----

X

:

:

:

:

:

:

:

:

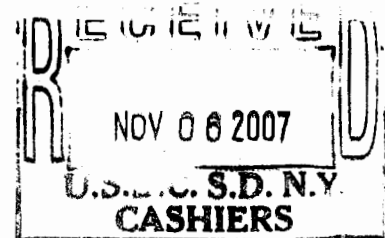
:

:

:

X

**07 CIV 9825**  
**Judge**



**VERIFIED COMPLAINT**

Plaintiff, Otto Candies, LLC, (hereinafter referred to as "Plaintiff"), by and through its attorneys, Harris & Rufty, LLC and Casey & Barnett, LLC, as and for its Verified Complaint against the Defendant, Construcciones Mecanicas Monclovas, S.A. de C.V. (hereafter referred to as "Defendant"), alleges, upon information and belief, as follows:

1. This is an admiralty and maritime claim within the meaning of Rule9(h) of the Federal Rules of Civil Procedure and 28 United States Code §1333.
2. At all times material to this action, Plaintiff was, and still is, a domestic limited liability company duly organized and existing under the laws of the State of Louisiana with a principal place of business at 17271 Highway 90,

Des Allemands, Louisiana, 70030.

3. Upon information and belief, Defendant was, and still is, a foreign corporation, or other business entity, organized under, and existing by virtue of the law of Mexico or some other foreign country with a principal place of business located at Calle 16 de Septiembre s/n, Col. Arbol Grande, Ciudad Madero, Tampaulipas, Mexico, 89489.
4. On or about November 2003, Plaintiff and Defendant entered into three separate "Supplytime 89" and "Barecon 89" standard time charter agreements for three barge and tug tandems to transport a jacket, pilings, and a deck section from Tampico, Mexico to the Cantarell Field in the Bay of Campeche.
5. Each charter agreement contained an arbitration clause which required that all disputes arising thereunder were to be submitted to binding arbitration in New Orleans, Louisiana.
6. Certain disputes developed between Plaintiff and Defendant under the charter party agreements.
7. Despite due demand, Defendant failed to pay all sums due under the charter agreements.
8. As a result, Plaintiff invoked its contractual right to arbitration.
9. Arbitration was conducted in New Orleans, Louisiana from May 2006

through August 2006.

10. Both parties fully participated in the arbitration proceedings, submitted briefs and exhibits, and produced witnesses.
11. On February 17, 2007, the arbitration panel issued a final decision awarding to Plaintiff \$1,255,578.00 plus interest accrued to that date of \$282,505.00.
12. Further, the arbitration panel ordered Defendant to pay 77.5% of the arbitration fees and costs.
13. Post award interest continues to accrue at the judicial rate.
14. Plaintiff has fulfilled all conditions precedent and has made demand on Defendant for payment of the arbitration award to no avail.
15. After due investigation, the Defendant cannot be found within this District within the meaning of Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure, but, upon information and belief, Defendant has, or will have during the pendency of this action assets, comprising, *inter alia*, cash, funds, credits, debts, wire transfers, accounts, letters of credit, freights, sub freights, charter hire and/ or sub-charter hire, of, belonging to, due or for the benefit of Defendant ("assets"), including but not limited to assets at, being transferred through, or being transferred and/ or wired to or from banking institutions or such other garnishees who may be served with a copy of the Process of

Attachment issued herein, within this District and subject to the jurisdiction of this Court, held in the hands of garnishees including but not limited to, ABN Amor, American Express Bank, Bank of America, Bank of New York, Citibank, Deutsche Bank A.G., HSBC Bank USA, J.P. Morgan Chase, Wachovia Bank, N.A., Standard Chartered Bank, the Clearing House Interbank Payments Systems, LLC, and/ or the New York Clearing House Association, LLC, which are believed to be due and owing to Defendant.

16. The Plaintiff seeks an Order from this Court directing the Clerk of Court to issue Process of Maritime Attachment and Garnishment pursuant to Rule B(1) of the Supplemental Rules for Certain Admiralty and Maritime Claims, and also pursuant to 9 U.S.C. §§ 1 and 8, attaching, *inter alia*, any assets of the Defendant held by the aforesaid garnishee(s) for the purpose of obtaining personal jurisdiction over the Defendant and to secure and/ or satisfy the Plaintiff's claim as described.

17. Further, Plaintiff will seek an Order of this Court recognizing, confirming, and enforcing the New Orleans arbitration award in Plaintiff's favor pursuant to 9 U.S.C. §1 *et seq.*

**WHEREFORE**, Plaintiff prays:

A. That process in due form of law issue against Defendant, citing it to appear and answer under oath all and singular the matters alleged in the Complaint;

- B. That since the Defendant cannot be found within this District pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims, this Court issue an Order directing the Clerk to issue Process of Maritime Attachment and Garnishment pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims, attaching all goods, chattels, credits, letters of credit, bills of lading, effects, debts and monies, tangible or intangible, or any other funds held by any garnishee, including but not limited to ABN Amor, American Express Bank, Bank of America, Bank of New York, Citibank, Deutsche Bank A.G., HSBC Bank USA, J.P. Morgan Chase, Standard Chartered Bank, Wachovia Bank, N.A., the Clearing House Interbank Payments Systems, LLC, and/ or the New York Clearing House Association, LLC, which are due and owing to the Defendants, in the amount of \$1,538,083.00 calculated to date to secure and/ or satisfy the Plaintiff's claims, and that all persons claiming any interest in the same be cited to appear and pursuant to Admiralty Rule B answer the matters alleged in the Complaint;
- C. That this Court recognize, confirm, and enforce the arbitration award herein as a judgment of this Court pursuant to 9 U.S. C. §1 *et seq.*;
- D. That this Court retain jurisdiction over this matter through the entry of any judgment or award associated with any of the claims currently pending, or

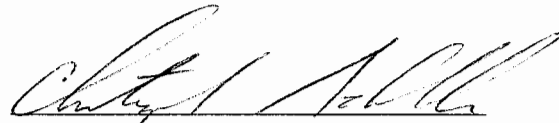
which may be initiated in the future, including any appeals therefore; and

E. That the Plaintiff has such other, further and different relief as the Court may deem just and proper.

Dated: New York, New York  
November 6, 2007

The Plaintiff,  
Otto Candies, LLC

By:



Christopher Schierloh (CS 6644)  
Martin F. Casey (MFC1415)  
CASEY & BARNETT, LLC  
317 Madison Avenue, 21<sup>st</sup> Floor  
New York, New York 10017  
(212) 286-0225 Telephone  
(212) 286-0261 Facsimile  
cms@caseybarnett.com

and

HARRIS & RUFTY, LLC  
Alfred J. Rufty, III (*pro hac vice*)  
650 Poydras Street, #2710  
New Orleans, Louisiana 70130  
Telephone: (504) 525-7500  
Facsimile: (504) 525-7222  
ajr@harrisrufty.com

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

OTTO CANDIES, LLC

Plaintiff,

- against -

CONSTRUCCIONES MECANICAS  
MONCLOVAS, S.A. DE C.V.,

Defendant,

[illegible]

**Civil Action No.**  
**Judge**

**ATTORNEY'S VERIFICATION**

State of New York    )  
                                  )  
County of New York)

SS:

1. My name is Christopher Schierloh.
2. I am over 18 years of age, of sound mind, capable of making this Verification, and fully competent to testify to all matters stated herein.
3. I am an associate in the law firm of Casey & Barnett, LLC, attorneys for the Plaintiff.
4. I have read the forgoing Verified Complaint and know the contents thereof and believe the same to be true and accurate to the best of my knowledge, information, and belief.
5. The reason why this Verification is being made by the deponent and not by the Plaintiff is that the Plaintiff is a business organization with no officers or directors now within this District.
6. The source of my knowledge and the grounds for my beliefs are the statements made, and the documents and information received from the Plaintiff and agents and/ or representatives of the Plaintiff.

7. I am authorized to make this Verification on behalf of the Plaintiff.

Dated: New York, New York  
November 6, 2007.

  
\_\_\_\_\_  
Christopher Schierloh